

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEREK A. WAITHE,

Defendant.

Case No. 01-cr-40017-JPG

MEMORANDUM & ORDER

J. PHIL GILBERT, DISTRICT JUDGE

This matter comes before the Court on defendant Derek A Waithe's appeal (Doc. 619) of this Court's prior order (Doc. 608) denying Waithe's motion for an extension of time to file a notice of appeal (Doc. 602). Waithe does not indicate under which procedural rule he brings his motion, so the Court has construed it as a motion to reconsider pursuant to Federal Rule of Civil Procedure 60(b). It is well settled that Rule 60(b) relief is an extraordinary remedy and is granted only in exceptional circumstances. *McCormick v. City of Chicago*, 230 F.3d 319, 327 (7th Cir. 2000) (citing *Dickerson v. Board of Educ.*, 32 F.3d 1114, 1116 (7th Cir. 1994)). Under Rule 60(b), a court may relieve a party from an order where there is "mistake, inadvertence, surprise, or excusable neglect", "newly discovered evidence that, with reasonable diligence could not have been discovered in time to move for a new trial", or "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party." FED. R. CIV. P. 60(b). "Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence." *Rothwell Cotton Co. v. Rosenthal & Co.*, 827 F.2d 246, 251 (7th Cir. 1987).

Waithe has not demonstrated any of the exceptional circumstances required to succeed on a Rule 60(b) motion. In fact, Waithe already filed a motion for reconsideration on this issue

months ago (Doc. 610), which the Court has already denied (Doc. 612.) Accordingly, the Court
DENIES Waithe's motion. (Doc. 619.)

IT IS SO ORDERED.

DATED: FEBRUARY 1, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE